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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,903	12/09/2003	Kenji Watanabe	056208.53059US	3314

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EXAMINER

MCMAHON, MARGUERITE J

ART UNIT PAPER NUMBER

3747

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/729,903

Applicant(s)

WATANABE, KENJI

Examiner

Marguerite J. McMahon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/09/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claims 2, 3, 6, and 7 are objected to because of the following informalities: In line 6 of claim 2 "possible to close" should be --which closes", and in lines 8-9 of claim 2 "under a state where" should be --wherein when--. In 14 of claim 3 "an device" should be --a device". In line line 3 of claim 6 "turned" should be --swirled--. The language in claim 7 is unclear to the examiner and should be rephrased to be clearer. Appropriate correction is required.

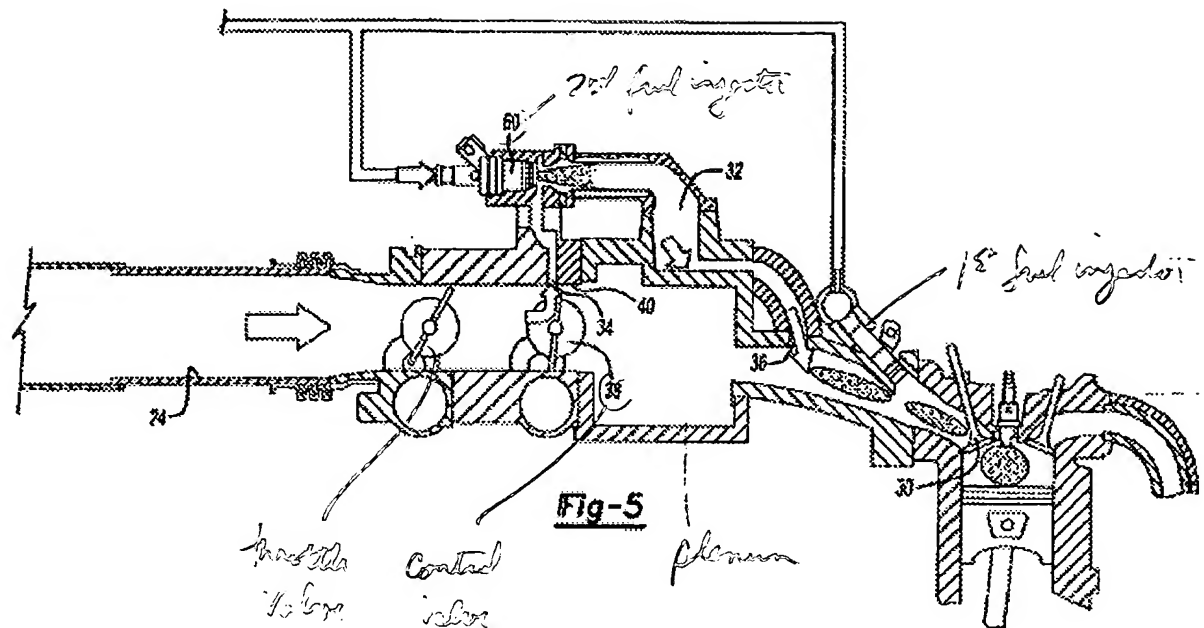
### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5, 7, as best understood, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunt et al (6,874,467). Hunt shows a throttle valve and a control valve 38 in intake passage 24 (see column 3, lines 13-25), a bypass 32, a second fuel injector 60 and heating means (see column 5, lines 1-10) in the bypass, and first fuel injector (unnumbered) near to an inlet port of each cylinder. The control valve 38, which is referred to as a throttle valve in Hunt et al is actuated by a motor (see column 4, lines 24-36). See also Figure 5 below:



### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 10 rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hunt et al (6,874,467). Note that Hunt et al show a plenum, unnumbered but labeled above, which is integral with the bypass outlet. The plenum implies that the intake manifold branches out into multiple passages going to the cylinders, and the fact that the bypass outlet is integral with the plenum indicates that it also has the same branched configuration. This appears to be

inherent to the Hunt et al reference but is not discussed, and if it is not sufficiently disclosed as to be anticipated, it would certainly be obvious, as branched passages are conventional in the art.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al (6,874,467) in view of Nogi et al (5,894,832) or Amou et al (6,508,236). Hunt et al show everything except the fuel being turned or swirled by the air flowing into the bypass. Nogi et al and Amou et al (6,508,236) both teach that it is old in the art for the air to cause swirling of the fuel in the bypass. It would have been obvious to one of ordinary skill in the art to modify Hunt et al by providing fuel swirling in the bypass, in order to increase fuel/air mixing and thus improve combustion characteristics.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al (6,874,467). Hunt et al show everything except the control valve being actuated with a vacuum. It would have been obvious to one of ordinary skill in the art to modify Hunt et al by utilizing vacuum to actuate the control valve in lieu of a motor, since the two are functional equivalents, known for the same function, as evidenced by claim 5.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marguerite J. McMahon whose telephone number is 703-308-1956. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yuen Henry can be reached on 703-308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**MARGUERITE MCMAHON**  
**PRIMARY EXAMINER**